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Attorney for Third-Party Defendant
Morris Heights Health Center
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LUZ M. VEGA, AN INFANT, BY HER	:	
PARENT AND NATURAL GUARDIAN,	:	
MANUELA VALENTIN, AND MANUELA	:	
VALENTIN, INDIVIDUALLY,	:	ECF CASE
	:	
Plaintiffs,	:	
	:	
v.	:	07 Civ. 2940 (GEL)
	:	
THE BRONX-LEBANON HOSPITAL CENTER,	:	
ILIANA ROBINSON, M.D.,	:	<u>NOTICE OF REMOVAL</u>
	:	
Defendants.	:	
-----X	:	
THE BRONX-LEBANON HOSPITAL CENTER,	:	
	:	
Third-Party Plaintiff,	:	
	:	
v.	:	
	:	
MORRIS HEIGHTS HEALTH CENTER,	:	
	:	
Third-Party Defendant.	:	
-----X	:	

Third-Party Defendant Morris Heights Medical Center (the "Medical Center"), by its attorney, Michael J. Garcia, United States Attorney for the Southern District of New York, hereby removes the above-captioned action to the United States District Court for the Southern District of New York. The grounds for removal are as follows:

1. On or about February 24, 2004, Plaintiffs Luz M. Vega and Manuela Valentin commenced this medical malpractice action by filing a summons and complaint in the Supreme Court of the State of New York, Bronx County, under index number 13286/04. The Complaint alleges, *inter alia*, that Defendant/Third-Party Plaintiff Bronx-Lebanon Hospital Center (“Bronx-Lebanon”) and Defendant Iliana Robinson, M.D., negligently provided unspecified medical care and treatment to Plaintiffs causing Plaintiffs to suffer unspecified “severe and permanent injuries” Compl. ¶¶ 7-20. A true and correct copy of the Verified Complaint is attached as Exhibit A.

2. On or about February 13, 2006, Bronx-Lebanon filed a summons and third-party complaint in the Supreme Court of the State of New York, Bronx County, under index number 13286/04. The Third-Party Complaint alleges, *inter alia*, that the Medical Center provided unspecified medical care to Plaintiff Manuela Valentin from February 1999 through July 1999, and that, if Plaintiffs sustained the damages as alleged in the Complaint, then such damages were caused by the Medical Center’s negligence in providing medical care to Plaintiff Manuela Valentin. Third-Party Compl. ¶¶ 5-11. A true and correct copy of the Third-Party Complaint is attached as Exhibit B.

3. Pursuant to section 224 of the Public Health Service Act, 42 U.S.C. § 233, as principally amended by section 4 of the Emergency Health Personnel Act of 1970, Pub. L. No. 91-623, 84 Stat. 1868, 1870-71, and sections 3 through 8 of the Federally Supported Health Centers Assistance Act of 1995, Pub. L. No. 104-73, 109 Stat. 777, 777-81, the Medical Center and its employees have been deemed to be employees of the United States since June 23, 1996. *See* Public Health Service Act § 224(g)-(j), (m), 42 U.S.C. § 233(g)-(j), (m).

4. The Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 1346(b), 1402(b), 2401(b) and 2671-2680, provides the exclusive remedy with respect to Bronx-Lebanon’s claims against the Medical Center. *See* Public Health Service Act § 224(a), 42 U.S.C. § 233(a).

5. This action may be removed to this Court pursuant to section 224(c) of the Public Health Service Act, 42 U.S.C. § 233(c), and 28 U.S.C. § 2679(d)(2) because: (i) there has not yet been a trial in this action; and (ii) this is a civil action brought against a party deemed to be an employee of the United States Government for purposes of the FTCA. A true and correct copy of the Certification of Michael J. Garcia, United States Attorney for the Southern District of New York, dated April 3, 2007, certifying that the Medical Center is deemed to be an employee of the United States that was acting within the scope of its employment for purpose of Bronx-Lebanon’s claims against it, is attached hereto as Exhibit C.

Dated: New York, New York
April 12, 2007

Respectfully submitted,

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Morris Heights Medical Center

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